IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5123 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE AKIL KURESHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

ARVIND MILLS COMPANY LTD

Versus

PADAMSINH TRILOKSINH YADAV

Appearance:

1. Special Civil Application No. 5123 of 2004

MR DEEPAK V PATEL for Petitioner No. 1

MR TR MISHRA for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE AKIL KURESHI

Date of decision: 26/07/2004

ORAL JUDGEMENT

Rule. Mr.T.R.Mishra, learned advocate appearing for the respondent waives service of notice of rule. At the joint request of the learned advocates for the

parties, the petition is taken for final disposal today.

2. In the present petition, the petitioner has challenged the ex-parte orders dated 4.12.2002 as well as dated 8.1.2004 by which the application of the petitioner for setting aside the earlier ex-parte order was rejected. By the order dated 26.4.2004, this Court had issued notice of final disposal on the condition that the petitioner deposits a sum of Rs.10,000/- within a period of two weeks from the date of the order. I am informed that the amount as directed has been deposited by the petitioner.

3. Learned advocate for the respondent concedes that the orders were passed ex-parte and he submits that the same may be set aside subject to the condition of the respondent being paid the aforesaid amount which is deposited before this Court by way of cost of litigation.

4. Considering the concession made, the impugned orders dated 4.12.2002 and 8.1.2004 passed by the President Officer, Labour Court, Ahmedabad in Recovery Application No.466 of 1996 and Misc. Application No.15/03 in Recovery Application No.466/96 respectively are quashed and set aside and the proceedings are remanded to the Labour Court for passing apprpriate order after hearing the parties. The Registry to issue an account payee cheque in favour of the respondent of an amount of Rs.10,000/- (Rupees ten thousand) deposited by the petitioner.

5. In view of the above directions, the petition stands disposed of. Rule is made absolute accordingly.

(Akil Kureshi, J.)
(vjn)